

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2008-KM-01129-COA**

**DAJUAN WILLIAMS**

**APPELLANT**

**v.**

**TOWN OF FLORA**

**APPELLEE**

DATE OF JUDGMENT: 5/27/2008  
TRIAL JUDGE: HON. WILLIAM E. CHAPMAN III  
COURT FROM WHICH APPEALED: MADISON COUNTY CIRCUIT COURT  
ATTORNEY FOR APPELLANT: VANESSA J. JONES  
ATTORNEY FOR APPELLEE: WENDY MOORE SHELTON  
DISTRICT ATTORNEY: PROSECUTOR, CITY OF FLORA: RONNIE KIRK  
NATURE OF THE CASE: CRIMINAL - MISDEMEANOR  
TRIAL COURT DISPOSITION: CONVICTED OF DRIVING UNDER THE INFLUENCE, FIRST OFFENSE, AND SENTENCED TO SERVE FORTY-EIGHT HOURS IN THE CUSTODY OF THE SHERIFF OF MADISON COUNTY; CONVICTED OF POSSESSION OF MARIJUANA IN A MOTOR VEHICLE AND ORDERED TO PAY A FINE OF \$500; CONVICTED OF SIMPLE DOMESTIC VIOLENCE AND SENTENCED TO SERVE THIRTY DAYS IN THE CUSTODY OF THE SHERIFF OF MADISON COUNTY  
DISPOSITION: APPEAL DISMISSED - 7/21/2009  
MOTION FOR REHEARING FILED:  
MANDATE ISSUED:

**BEFORE LEE, P.J., ISHEE AND ROBERTS, JJ.**

**LEE, P.J., FOR THE COURT:**

**FACTS AND PROCEDURAL HISTORY**

¶1. DaJuan Williams was stopped by a police officer in Flora, Mississippi for a suspected window-tint violation. After smelling marijuana and seeing smoke in the car, the police officer searched the car and found a bag of marijuana under the hood. Williams was found guilty by the Municipal Court of Flora of possession of marijuana and driving under the influence (DUI). Williams appealed to the County Court of Madison County, which affirmed his convictions.

¶2. In a separate incident that occurred on a different date, Williams was charged with simple domestic violence against LaToya Kidd. He was found guilty by the Municipal Court of Flora of simple domestic violence, and the County Court of Madison County subsequently affirmed his conviction.

¶3. Williams appealed his convictions of possession of marijuana, DUI, and simple domestic violence to the Circuit Court of Madison County.<sup>1</sup> The three causes were combined, and the circuit court affirmed all three convictions. Williams now appeals to this Court.

¶4. Williams asserts the following issues on appeal regarding the possession of marijuana and DUI convictions: (1) his affidavit was materially flawed; (2) his motion to suppress was erroneously denied because his vehicle was illegally searched; and (3) the verdict was against the overwhelming weight of the evidence. As to the simple domestic violence conviction, Williams asserts that the verdict was against the overwhelming weight of the evidence.

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<sup>1</sup> Williams filed one notice of appeal for all three cases to the trial court, and the trial court assigned the cases the following three cause numbers: 2007-0371-C (simple domestic violence), 2007-0372-C (DUI), and 2007-0373-C (possession of marijuana in a motor vehicle).

¶5. Finding that the proper procedure was not followed for an appeal to this Court, we dismiss this appeal for lack of jurisdiction.

#### DISCUSSION

¶6. Since Williams's cases originated in municipal court, Williams's appeal is governed by Mississippi Code Annotated section 11-51-81 (Rev. 2002). Section 11-51-81 states, in pertinent part, the following:

[T]here shall be no appeal from the circuit court to the supreme court of any case civil or criminal which originated in a justice of the peace, municipal or police court and was thence appealed to the county court and thence to the circuit court unless in the determination of the case a constitutional question be necessarily involved and then only upon the allowance of the appeal by the circuit judge or by a judge of the supreme court.

“The presence of a constitutional question and the granting of an appeal by either the circuit judge or a judge of the [s]upreme [c]ourt are both necessary ingredients for a viable appeal to the [s]upreme [c]ourt.” *Johnson v. State*, 879 So. 2d 1057, 1060 (¶7) (Miss. Ct. App. 2004) (quoting *Davidson v. State*, 592 So. 2d 1006, 1007 (Miss. 1992)).

¶7. Williams's case originated in municipal court, was tried de novo in county court, and was then appealed to circuit court. Williams's appeal to this Court was not accompanied by the necessary formal allowance of either the circuit judge or a supreme court justice. *Id.* Therefore, we find that Williams's appeal is defective and that we lack jurisdiction to hear this matter. This appeal is dismissed for lack of jurisdiction.

¶8. **THIS APPEAL IS DISMISSED. ALL COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.**

**KING, C.J., MYERS, P.J., IRVING, GRIFFIS, BARNES, ISHEE, ROBERTS, CARLTON AND MAXWELL, JJ., CONCUR.**